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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,353	04/25/2002	John Alfred Wilkinson	B0192/7033	1376
23628	7590	11/24/2004	EXAMINER	
WOLF GREENFIELD & SACKS, PC FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2211			LEVY, NEIL S	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/019,353

Applicant(s)

WILKINSON, JOHN ALFRED

Examiner

Neil Levy

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/18/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 8, 9, 11-17, 19, 33, 73-93 is/are pending in the application.
- 4a) Of the above claim(s) 8, 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 9, 11-17, 19, 33, 73-85, 87-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-4, 8, 9, 11-17, 19, 33, 73-93 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 86 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8.

Claims 8, 81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Here, it is unclear how gels agent – glyceryl poly methacrylate – “contains” 95% water. Carbomer is not evident in the specification, to examiner.

Claims 1-4, 8, 9, 11-~~19~~<sup>19A</sup>, ~~33~~<sup>33A</sup>, 33-85, 87-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eini et al EP 049684 in view of Greff ~~612353~~<sup>6123953</sup> or Burk et al ~~452002/0151521~~<sup>452002/0151521</sup> or Sine et al 6183766.

Eini treats parasitic human and animal lice infestations with sage essential oils in gel formulations. Neither applicant nor Eini show any ~~actually~~<sup>chitricity</sup>, unexpected, or unobvious effects attributable to the use of any particular gel; synthetic or natural. Eini does contemplate carbomer; otherwise does not divulge gels.

Greff also applies gel skin compositions utilizing plant extracts (col. 4, lines 35-42) in the instant gels (col. 2, lines 15-25) and carbomeres (example 5).

Greff shows antimicrobial efficacy of the gel compositions.

Burk also applies gel skin compositions (col. 1, 0002) utilizing plant extracts (0049), (Example 1) in the instant gels (0047) with aloe vera gel.

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Sine also applies gel skin compositions (col. 1, line 57- line 18, col. 2) utilizing plant extracts (col. 12, line 18-36) and carbomers in the instant gels (col. 11, lines 4-16, 62-66).

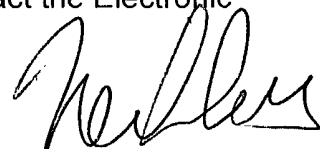
It would have been obvious to a person of ordinary skill in the art at the time invention was made <sup>desirably</sup> to utilize natural compounds to control pests, to utilize Eini, with the particular gel agents shown advantageous for topical use by Greff, Burke or Sine, in order to provide skin enhancing, cleaning or antimicrobial efficacy. m

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sine '329 also provides the instant topical gels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gray Kunz can be reached on (571) 272-0887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



NEIL S. LEVY  
PRIMARY EXAMINER